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REFORMATIONS IN MUSLIM LAW IN THE PRESENT WORLD AND CONSISTENCY WITH ISLAMIC PRINCIPLES

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A B S T R A C T

Reformation of any law is necessary for adaptation of it with the passage of time. So is the personal law of the muslims. The Muslim Personal Law (Shariat) Application Act, 1937 states certain personal issues of the muslims will be dealt with pure sharia law of those. Legal provisions on several issues like inheritance, custody and guardianship of a child, dissolution of marriage, polygamy etc. have been changed, supplemented or reformed by statutory laws of the state as well as by judicial precedents. These reforms have made significant changes to the interpretation, application and clarification to the classical muslim laws. In many cases the reforms made so far are derogatory from classical laws on the issues. This paper tries to find out those reforms and analyse them based on their consistency with the Islamic sources of law.

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INTRODUCTION

The word 'reform' literally means to remodel, rectify, correct and amend. Technically renovate means doing over to bring about a better result, correction or rectification. With the passage of time, due to circumstantial, economic and social changes; reform is a must to keep pace with the changing World. So change is made both in the state laws and in the personal law. 'Islamic law' means the law based on Islamic principles. The Muslim personal law is based on four sources. The primary sources are the Quran *and the Hadith.* The other two *Ijma and Quias* are the secondary sources. *Ijma* is the consensus of opinion of the prominent Islamic jurists and the latter is analogical deduction. All the four sources together make up the *Sharia* Law or Islamic Law. Besides the four religious sources of Islamic law, we have statutory laws and judicial precedents which have made significant contribution to the interpretation, clarification and occasionally to the reform of religious law.

Besides legislation law may also be reformed by the way of judicial activism. Present World means the present muslim World and not others. Consistency with Islamic principles indicates- the reforms which are made in the Islamic countries whether they comply with fundamental Islamic commandments of almighty Allah and his holy prophet Hazrat Mohammad (sm) or not.

This paper is about the most important issues of Muslim personal law i.e. marriage, polygamy, registration of marriage, dower, dissolution of marriage, maintenance, custody and guardianship of minors, inheritance and the reforms made in this fields. Here Islamic law and Muslim personal law are used interchangeably. The paper tries to discuss both Islamic theologies, reforms made to it in the present World and side by side the compliance of those reforms with the Islamic principles.

SCOPE AND OBJECTIVES OF THE STUDY

The objective of this study is to find out reforms made to the Islamic law in contemporary World besides Bangladesh, India and Pakistan , to show the conformity of those reforms with Islamic principles, to analyze those critically and to give findings and recommendations .

METHODOLOGY

The topic of the research is a broad subject. This paper applied qualitative approach in its way of the study as it is best suited to the topic. It consulted with both the primary i.e. the holy *Quran* and the *hadith* of the prophet and secondary sources i.e. *Ijma* and *Quyas*. Besides these it consulted with both the books of the famous writers on Islamic laws, articles on related issues, statutory Acts, case laws and websites.

To find out the reforms in islamic law, qualitative approach may give the best opportunity for the purpose because reforms are available mostly in the Ijma, Quyas, statutory Acts and in the precedents.

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DISCUSSION AND RESULTS

Marriage

Islamic Law Relating to Marriage

From the legal point point of view the requirements for a valid marriage are the offer and acceptance (*Ijab and Qabul*) required in the presence of two witnesses who must be either both males or one male and two females.

Age of Marriage

Every Muslim of sound mind who has attained majority can enter into a valid contract of marriage. Majority is attained at puberty. According to Sunni *Hanafi* law, this age is 15 unless puberty is reached earlier. Every Mahomedan of sound mind, who has attained puberty, may enter into a contract of marriage. The Child marriage Restraint Act of 1929 sets 14 for the bride and 18 for the bridegroom. After the amendment ordinance of 1984, now the age is 18 for female and 21 for the male in Bangladesh. In Malaysia, under The Law Reform Act of 1976 the minimum age for marriage is 18 years for both the parties. The consent of both the parties and of their parents is essential under the same Act.

In Afganistan, The marriage can take place only when they are sixteen. The Child Marriage Restraint Act, 2017 has made under-age marriages a penal offence. Under the Act the minimum age of marriage for a male is 21 years whereas the minimum age of marriage for a female is 18 years. Despite the fact that under-age marriages are liable to punishment, such unions are not rendered invalid. Average Marriage Age in different countries of the World.Worldwide average marriage age for men is 28.7 and 26.8 for women.

Compliance with Islamic law

Here a clear contradiction is evident between Islamic law and state law.

Though conflict is seen here between the two laws, the new age limit under state law does not make the marriage void rather it makes child marriage as punishable. In the socio-economic condition of the country increase in the age of marriage is a timely step.There are some obligations for a husband to perform after marriage. A boy after attaining puberty can not be able to perform all the obligations regarding maintenance of the family suddenly. There is a question of income to survive. So increase in the age is in compliance with the Islamic principles.

Option of puberty (khyar-ul-bulug)

Under classical law when any guardian other than father or grandfather contracts a marriage, the minor has the option to repudiate the marriage on attaining puberty. The DMMA Act of 1939 deals with the option of puberty. Section 2(vii) of the Act has increased the age to exercise the right of the option of puberty till she reached 19 years of age if contracted into marriage before 18. Now a Muslim girl can repudiate her marriage if

brought about while she was a minor even if she is married off by her father or grandfather. (Provided the marriage has not been consummated).
Conformity with Islamic principles: Here two inconformities are evident one is –she can repudiate the marriage even given to marriage by father or grandfather, another is – she can repudiate the marriage before attaining 19. By this provision of the Act the personal choice of the girl is respected. As the minimum age of marriage is increased, so increase of age for the purpose of option of puberty is also logical.

Witnesses to Marriage

Under the Shia and Maliki doctrines the validity of a marriage does not depend on the presence of witnesses, whilst under the Hanafi law it is a necessary condition. The presence of witnesses is required when the marriage is actually entered into. Marriage contracted without witnesses as required by sec 252 (*Mullah)* is irregular, but not void.
Under *hanafi* law at least two male witnesses or one male and two female witnesses are essential. But only females cannot be the witnesses to a marriage.
In *Hanfi* law, the presence of witnesses is a must for a valid marriage.The Quran is silent on the issue of witnesses. Majority of Muslim jurists rely upon a hadith quoted by Muslim in his collection. Prophet (pbuh) said, "Announce Your Marriages".The principle of Hanafi law is practiced in Pakistan and accepted by the courts. In Shazada Begum v. Abdul Hamid 1950 Lah 773, PLD 1950 Lah. P. 540 and in many other cases, the courts have observed that "a marriage can't be invalidated merely on account of witnesses.

Polygamy

Polygamy is neither required nor encouraged, but simply permitted and not outlawed completely.No person, during continuance of an existing marriage, shall be empowered to contract another marriage, without the prior written permission of the arbitraton council of the area concerned. A mohammadan may have as many as four wives at the same time. The Quran ordains "and if fear that you shall not be able to deal justly with the orphan-girls, then marry (other) women of your choice, two or three, or four; but if you fear that you shall not be able to deal justly (with them), then only one.So in Islam, polygamy is allowed up to four subject to the condition that he shall deal with the wives equitably and justly.

Statutory provisions regarding polygamy

The MFLO has also introduced some reforms in the law relating to polygamy. Now, a husband must submit an application and pay a prescribed fee to the local union council in order to obtain permission for contracting a polygamous marriage. Thereafter, the council determines the necessity of the proposed marriage. The section 6 of The MFLO 1961 deals with polygamy. Section 6 of the Ordinance provides: "No man, during the subsistence of an existing marriage, ----under the Muslim

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Marriages and Divorces (Registration) Act, 1974." In his application to the council for permission the husband shall mention the reasons of the proposed marriage and whether the consent of the existing wife or wives has been taken or not.
If the arbitration council considers that the proposed marriage is necessary and just, it may grant the permission.

Case laws on polygamy
Jesmin Sultana v. Md**.** Elias The court opined: the expression of the holy Quran by the words "be able to deal justly" is the condition precedent to marry more than one woman which implies equality in love and affection and such equality being impossible in the weakness of human nature, the permission to take another wife amounts virtually to a prohibition for which section 6 of the Ordinance is not against the principle of Islamic law.
Law of Polygamy in Malaysia
The Islamic Family Law (Federal Territories) Act, 1984 requires an application for a polygamous marriage to fulfill five conditions: such as it is just and necessary, he has means to support the present and future dependants, consent of the existing wife and ability to accord equal treatment to his wives as required by the Quran.

Consistency with Islamic principle
Section 6 of the MFLO 1961 does not make the polygamy void directly rather it has put some prior procedures to be followed.
Similarly we see the Quranic verse (4:3) allows taking upto four wives at the same time and warns the equality and fairness in treatment is a must. It also added that (perhaps) you will not be able to be fair and just between women so only one (is better). So the Ordinance of 1961 does not contradict with classical Islamic law. This Ordinance gives statutory force to the Islamic law to some extent.

Registration of Marriage
As per Islamic law there is no requirement of registration for the validity of marriage. It requires (1) *Ijab* (declaration or offer), on the part of the one; (2) *Qabul* (acceptance) by the other; (3) before sufficient witnesses; two in Hanafi law; in Shite law witnesses are not necessary. Cited in Fayzee at p.91 Under classical law the marriage contract is not required to be reduced to writing; an oral marriage is perfectly valid. As there is no clear commandment to register a marriage under Islam.

Reforms Made in Bangladesh
The Muslim Marriages and Divorces (Registration) Act, 1974 made the registration of all the Muslim marriages and divorces compulsory. Section 3 of the Act made registration of marriage mandatory. Contravention of this Act is made punishable.

Reforms made in Pakistan

In Pakistan the registration of marriage is compulsory under section 5 of The Muslim Family Laws Ordinance of 1961. The compulsory registration system was incorporated into law under the report of The Commission on Marriages and Family laws 1956.

Registration of Marriage in India

Unlike Bangladesh and Pakistan, the Indian Govt. has not passed any law for compulsory registration of the Muslim marriages and so registration is not mandatory.

Conformity with Islamic principles

Under Islamic law, marriage is contract. Though it does not require registration of muslin marriages imperatively, it emphasizes on the written form of any economic transaction involving future obligations. So it is evident that, marriage being a contract should also be registered or written down as it will be easy to prove the marriage. The Proof of marriage is essential for getting their rights by the women.

DOWER

Concept of Dower

According to Islamic law where there is a marriage there is a Dower. It is a bridal gift and a token of respect to the wife. Dower (*Mahr*) is that financial gain which the wife is entitled to receive from her husband by virtue of the marriage contract itself whether or not in the contract of marriage. Mr. Justice Mahmood defines Dower in the case of -Abdul Kadir vs. Salima (1886), All. As "Dower under the Mohammedan law is a sum of money or other or Property promised by thy husband to be paid or delivered to the wife in Consideration of the marriage."

Kinds of dower

There are two kinds of dowr i.e prompt and deffered. The dower which becomes payable on the dissolution of marriage either by death of any party or by operation of law is called deferred dower. In the case –Saleha Khatun v. Saleh Ahmed, 25 BLD,(HCD),2005 324 AT 328 the court held that Dower is the essential condition of muslim marriage. to provide for the maintenanace of the wife by the husband it is enjoined by the Muslim law, but to pay prompt dower on demand it is all the more enjoined by that law, the same being an essential condition of a contract of marriage. The husband's failure to pay prompt dower does not appear to be against public policy or the principles of muslim law. In another case - Chanani Begum v. Muhammad Shafiq, 1985, MLD p. 310 *The Quran ordains*

"And give the women (on marriage) their dower as a free gift. The wife shall be entitled to half of the specified dower if the marriage is dissolved before consummation.

Muslim Family laws Ordinance, 1961 under Section 10 Dower:

If no details mode of dower is specified in *the Nikkahnama*, entire amount

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of Dower becomes prompt.In Mst. Meherunnahar v. Rahman Khondekhar the Family Court said that the amount of dower should be that which the husband is able to give. Where the wife felt that possible way to win or retain the affection of her husband was to act on his suggestion and to remit the dower. It was held that she did not act as free agent and it would be inequities to hold that a woman who remits Dower in such circumstances is bound by it. Shah Banu Begum v. Iftekhar Md. Khan.

Reformations regarding dower by statutory law

Section 10 of the MFLO 1961 says where no details about the mode of payment of dower are specified in the *Nikahnama* of the marriage contract, the entire amount of the dower shall be prescribed to be payable on demand. Section 6(5) of the MFLO 1961 made, in cae of another marriage without the permission of the arbitration council, the entire amount of the dower payable on demand, whether prompt or deferred, and On conviction upon complaint the husband shall be punishable with simple imprisonment upto one year or with fine upto ten thousand taka.

DISSOLUTION OF MARRIAGE

Islam discourages divorce but, unlike some religions, does make provisions for divorce by either party. TALAQ is the word used in Islamic law for Divorce. It only an unavoidable circumstances that TALAQ is permitted in Islam as a lawful method to bring the marriage contract to an end. The *shariah* takes a very reasonable and realistic view of such a sad situation where marriage becomes impossible to continue and all means fails to bring the couple together, by permitting divorce as last resort.

Islamic law relating to *talaq*

The Quran ordains: "and you fear that the two (husband and wife) may not be able to keep the limits ordered by Allah, there is no blame on either of them if she redeems herself (from the marriage tie)" (2: 229). Another verse of the Quran: "a divorce is only permissible twice, after that the parties should either hold together on equitable terms, or separate with kindness."Any Mohammedan of sound mind may divorce his wife whenever he desires without assigning any cause. The case is – Ahmad Karim v. Khatun Bibi (1932) 59 Cal, 833, 141 I.C 689

So under Islamic law the husband has absolute right to divorce his wife. The controversy with divorce lies in the idea that men seem to have absolute power in divorce. The way the scholars in the past have interpreted this is that if the man initiates the divorce, then the reconciliation step for appointing an arbitrator from both sides is omitted. This diverges from the *Qur'anic* injunction. The differences in powers of the husband and wife with regard to divorce can be extracted from the following verse: ...but, in accordance with justice, the rights of the wives (with regard to their husbands) are equal to the (husbands ;) rights with regard to them, although men have precedence over them (in this respect).

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And God is almighty wise. (2:228)
It is in the next verse, according to existing interpretations, the reason for the small difference: Men shall take full care of women with the bounties which God has bestowed more abundantly on the former than on the latter, and with what they may spend out of their possessions. And the righteous women are the truly devout ones, who guard the intimacy which God has (ordained to be) guarded. (4:34). After marriage both male and female life partners have almost equal opportunities to get divorce if they don't want to live together. However it should be noted that as per our beloved prophet (peace be upon him): Allah did not make anything lawful more abominable to Him than Divorce. Of all the lawful acts the most detestable to Allah is Divorce**.** (*Sunan Abu dawud*: Book: 12, *Hadith* No.2172-2173)

The Qur'an says: And for women have rights over men similar to those for men over women' (2:228).

Divorce by wife
The divorce by wife can be categorized under three categories:
(i) Talaaq-i-tafweez
(ii) Lian
(iii) By the Dissolution of Muslim Marriages Act 1939.
Talaaq-i-tafweez or delegated divorce: it is recognized among both the Shias and the Sunnis. The Muslim husband is free to delegate his power of pronouncing divorce to his wife or any other person. He may delegate the power absolutely or conditionally, temporarily or permanently. The power of talaaq may be delegated to his wife and as Faizee observes, "this form of delegated divorce is perhaps the most potent weapon in the hands of a Muslim wife to obtain freedom without the intervention of any court and is now beginning to be fairly common in India".Dissolution by the wife on certain grounds under section 2 of the DMMA of 1939:

Reforms taken by statutory and case laws into the classical law on dissolution
Reforms by the DMMA of 1939
Besides Talaq-e-tafwid or delegated divorce, khula or mubara, the women are given the rights to divorce by the Dissolution of Muslim Marriages Act, 1939. Section 2 of the said Act specifies certain grounds under which they can apply to the family court to obtain a decree for dissolution of marriage. These grounds include- if whereabouts of the husband is not known for 4 years, his failure to provide maintenance for two years, his imprisonment for 7 years or upwards, taking additional wife without her consent, impotency, and insanity, his suffering from leprosy or venereal disease and cruelty to her both physical and mental.
This is said to be the most important pieace if legislation in the subcontinent. If the court is satisfied and grants a decree, the wife does not lose the right to dower (sec. 5). This is great reform in favour of the women to establish their rights.

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Reforms by the MFLO 1961

The reforms are taken mainly by The Muslim Family Laws Ordinance, 1961. Section 7 lays down the procedure to be followed when the husband and the wife wish to divorce each other without the intervention of the court. The ordinance makes it obligatory upon the husband to send notice of talaq to the chairman of the union council irrespective of the methods adopted by him i.etalaq al ahsan, talaq al hasan or talaq al bidat. Failure to give notice is made punishable under the ordinance. The union council must take all necessary steps to bring about reconciliation between the husband and wife. The divorce will, if not revoked earlier, be effective only after the expiry of ninety days from the date of the notice or if the wife is pregnant after the delivery. If and when a divorce becomes effective, the parties may marry each other without intervening marriage. But after the third effective divorce, intervening (hilla) marriage is required sec.7 (6). Section 7 of the said ordinance has made all forms of talaq into single revocable talaq. The method of reconciliation has been made mandatory. The object of this section is to prevent the hasty dissolution of marriage by way of talaq pronounced by the husband unilaterally, without any attempt being made to prevent the ending of the matrimonial tie.

However in the case Sirajulislam v. Helena Begum 48 DLR (1996) p.51 the court held that "non-service of notice to the chairman can not render the divorce ineffective. Section 8 of the same ordinance of 1961 provides that the method of section 7 shall so far applicable shall apply even in any other forms of talaq.

Provisions of intervening marriage in Islam

"So if a husband divorces his wife (irrevocably), he cannot, after that, remarry her until after she has married another husband and he has divorced her."So here it is clear from the verse that a man once divorcing his wife can not marry the same wife without intervening marriage. But under the ordinance he can marry the same divorced wife. But if he wants to marry her after three complete divorces then she is required *hilla* marriage if she wants to be getting married for the fourth time with the same husband.

Reform in case of Khula

Under classical law the consent of the husband is essential in Khula by the wife from the husband. But the SC of Pakistan held– the court can effect khula even if the husband does not consent, if the wife can show irretrievable breakdown of the marital relationship.

Conformity with Islamic principles

Under classical law, *talaq al bidat* is irrevocable but under the ordinance that is also revocable as per section 7 as all forms of talaq is made not to be effective unless 90 days are passed from the date of notice. So husband can take his wife back even after giving her talaq-ul-bain or irrevocable

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divorce within 90 days of pronouncement. Here conflict is seen between the statutory law and that of classical Islamic law. And the provision of reconciliation by the U.P chairman is quite consistent with classical Islamic law. Rather it has strengthened the classical law. The almighty encourages the husband and wife to appoint arbitrators as the first step to aid in reconciliation in the process of divorce. If the reconciliation step fails, both men and women are guaranteed their right to divorce as established in the Qur'an.

MAINTENANC

Maintenance is obligatory in lawful *(shahi*) marriages.With regard to the issue of maintenance, the Qur'an addresses the ex-husband's financial obligation to his ex-wife but it does not provide a specific formula for the amount of support (2:241, 65:4-7). This is open for negotiation between parties and should be in proportion with the husband's financial income. Under classical law, maintenance of the wife is an obligatory duty of the husband. If he neglects or refuses to maintain her without any lawful cause, she can sue him in the family court under section 5 of the Family Courts Ordinance, 1985.

In the case of Rustom Ali v. Jamila Khatun ,43 DLR(1991) p.301 the HCD held that she is not entitled to past maintenance unless the claim is based on specific agreement. But in the case of Sirajul Islam v. Helena Begum, 48 DLR, (1996) p. 48 the court – granted a half prior to the institution of the suit. In the case of Hefzur Rahman v. Shamsun Nahar Begum, 47 DLR (1995) p. 74. Here in this case the court gave the liberal interpretation of the Quranic word mataa that mataa is something to which a divorcee is entitled, and which a former husband is under an obligation to pay.

Reforms in maintenance in classical law

Section 9 of the MFLO 1961 provides if any husband fails to maintain his wife adequately, or where there are more wives than one, fails to maintain equitably, the wife or all or any of the wives may, besides other legal remedy, apply to the chairman who shall form an arbitration council to determine the matter; this council may specify the amount of maintenance to be paid by the husband. Section 2(ii) of the DMMA of 1939 provides failure or neglect to provide maintenance for two years may be a ground for obtaining a decree for dissolution of marriage.

Reforms made by the Guardians and Wards Act, 1890 and case laws

The Act of 1890 does not make any distinction between custody and guardianship. But in Muslim law these two are quite different things. Some reforms are taken by section 7 and 17 of the Act. Under section 7 in the absence of the mother, father, maternal and paternal relations; the court may appoint a guardian for the welfare or benefit of the minor. Under section 17 (1) in appointing or declaring the guardian of a minor, the court

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shall be guided by the by what, consistently with the law to which the minor is subject, appears in the circumstances to be for the welfare of the minor and the court shall regard to the age, sex and religion of the minor, character and capacity of the proposed guardian and his nearness of keen to the minor, the wishes if any, of a deceased parent.

Child's participation in the proceeding

Under section 17(3) if the minor is old enough to form an intelligent preference, the court may also consider that preference. Here it is evident that some matters to be taken into considerations but in pure Islamic law no such provision is available.

The welfare doctrine would have precedence

However the judges made it clear that if the personal law and the welfare doctrine conflicts, the welfare doctrine would have precedence. The most important case on the subject is –Md. Abu Bakar Siddique v. S.M.A Bakar, DLR (AD) 1986, P. 106. Another case on same consideration is Mst. Zohra Begum v. Sheikh Latif Ahmed Munawwar, where the court said – it is true that, according to hanafi law, father is entitled to the Hizanat or custody of the son above seven years of age…. But this rule is found neither in Quran nor in Sunnah.

Section 12 and 13 of the Guardians and Wards Act 1890 are applicable to the proceedings before the family court in deciding guardianship of minor where evidence are to be taken and the welfare and best interest of the minor shall be the paramount consideration. Md. Rahmatullah&ors. Vs. Most. Sabana Islam & ors. 54 DLR (HCD), 2002.

INHERITANCE

***Surah an-Nisa* 4:7**

This verse decribes the Quranic hares of the heirs.

What your wives leave, your share is a half, ---- thus is it ordained by Allah; and Allah is All-knowing, Most Forbearing (4:12).

Reformations in the Islamic law of inheritance

Doctrine of representation

When one of the sons of a person dies, leaving child/children, before that person, this child or children does not inherit the property of his grandfather. But the doctrine under which this grandchild represents his father in the property of his grandfather is called "The doctrine of representation". Under this doctrine this grandchild gets equal property as his father would have received, if he were alive. This doctrine is introduced by the Muslim Family Law Ordinance, 1961 which was enacted by Pakistan, now followed by Bangladesh and Pakistan. According to all four Sunni schools, the deceased's orphaned grandson or granddaughter is totally excluded from inheriting if a son exists.

Reform in Somalia in the law of inheritance

In Somalia, males and females are now completely equal with regard to

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inheritance rights. When there are no children or grandchildren, the widow or widower inherits one-half of the estate. When children or grandchildren exist, this amount is reduced to one-fourth of the estate. If the deceased leaves only a parent, only a sibling or only a single child, the parent or sibling or child, regardless of gender, inherits the entire estate (Esposito 2001). In 1946, Egypt addressed this problem by providing for an obligatory bequest for the orphaned grandchild. In Syria, Morocco, and Tunisia have similar systems, though Syria's applies only to the children of the deceased's son and not his daughter (Esposito 2001). In the 1961 Muslim Family Laws Ordinance, Pakistan provided for representational succession by lineal descendents (Esposito 2001). Bequests under the traditional Sunni rules of inheritance, bequests of up to one-third of the estate can be made, but not to an heir unless (for some schools) the other heirs agree.

CONCLUSION

No muslim can believe that islam is an outdated religion and incapable to meet the pace with the changing World. The door of *Ijtihad* is open to the islamic jurists based on the fundamental sources i.e. the Quran and Hadith. So without damaging the basic pillars the *mustahids* (islamic jurists) can interpret islamic law for the better solution because all the circumstances of the World before 1400 years are not quite the same as now in the changing World. However, the reforms made till now into the islamic law by legislations and precedents are in most of the cases deserve praise except some. The reform in the minimum age of Muslim marriage is a good one because in the present context traditional age will create problems. Present polygamy law is better under the MFLO OF 1961. But provisions of banning intervening marriage are not acceptable as marriage should not be a plaything. On the contrary the classical law in this regard should be implemented. There are no provisions in the statutory Acts or Ordinance regarding the witness to the marriage so these provisions can be incorporated in the Muslim Marriages and Divorces Act, 1974. Inserting the mandatory registration in the Act is a good step among the reforms so far made. Dower is *Quranic* provisions so it should be encouraged to be paid to the wife besides prohibition of dowry. It should not be only for writing and being effective after the death of the husband. Maintenance should be limited only during marriage and till the period of iddat not post divorce but past maintenance may be allowed in a reasonable manner as in Shah Banu Case of India. In case of divorce, reform by the Act of 1939 is a good step in the establishment of women's rights. (Divorce) Marriage, according to Mohammadan Law, is a civil contract. The wife at the time of marriage is at liberty to get the husband's power of divorce delegated to her on stated conditions, and thus secure equality of divorce with her husband. However the women should be made aware of their rights of talaq-e-tafwid (delegated divorce) as this the easiest way for them to dissolve the marriage by them.

Talaq–ul-bidat as made in the MFLO revocable is praiseworthy because

bidat is a sin as the prophet said. A wife who spends her whole life for her husband's family should not be subjected to such tyranny system of triple talaq at the same time. Its context was different when it was allowed by the second caliph of islam; as it was a punitive measure to the people who resorted to it. In case of custody and guardianship, "the best interest of minor principle adopted by the court" is a contemporary advancement in the legal system. Though this principle is in some cases violates classical law; the guardianship always remains on the husband. So there is no grave violation. The main reform in inheritance is the introduction of MFLO 1961 by inserting the provisions of the doctrine of representation. This is for the protection and assurance of the orphan's rights. As the Report of commission on marriages and Muslim laws-1956; The gazette of Pakistan, Extra, june, 20, 1956. At p. 1223 states –"the right of representation entitles a grandfather to inherit the property of his grandsons even though the father of the testator has pre-deceased him, why can the same principle be not applied to the lineal descendants, permitting the children of a pre-deceased son or daughter to inherit property from their grandfather."

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